

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES,
THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF CALIFORNIA,
AND
THE COUNTY OF FRESNO
PROVIDING FOR PROJECT WATER SERVICE

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1 THIS CONTRACT, made this 5th day of April 2001 in pursuance
2 generally of the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory or supplementary thereto,
3 including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and
4 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat.
5 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), as amended, and Title XXXIV
6 of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as the Federal
7 Reclamation law, and pursuant to the California Central Valley Project Act [Part 3, Division 6
8 (commencing at Section 11100) of the California Water Code] and the California Water Resources
9 Development Bond Act [Chapter 8, Part 6, Division 6 (commencing at Section 12930) of the
10 California Water Code,] and all acts of the California legislature amendatory thereto or
11 supplementary thereof between THE UNITED STATES OF AMERICA, hereinafter referred to as
12 the United States, THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF
13 CALIFORNIA, hereinafter referred to as DWR, and THE COUNTY OF FRESNO, hereinafter
14 referred to as the Contractor, a political subdivision of the State of California, duly organized,
15 existing, and acting pursuant to the laws thereof, with its principal place of business in Fresno,
16 California;

17 WITNESSETH, That:

1 is hereinafter referred to as the Existing Interim Renewal Contract, which provided for the continued
2 water service to the Contractor from December 1, 2000, through February 28, 2001; and

3 WHEREAS, the Contractor has requested a subsequent interim renewal contract
4 pursuant to the Existing Interim Renewal Contract, Federal Reclamation law and the laws of the
5 State of California, for water service from the Central Valley Project; and

6 WHEREAS, the United States has determined that the Contractor has to date fulfilled
7 all of its obligations under the Existing Interim Renewal Contract; and

8 WHEREAS, the Contracting Officer has determined that the Contractor has the
9 capability to fully utilize for reasonable and beneficial use, or shown projected future reasonable and
10 beneficial use for, the quantity of Project Water to be made available to it pursuant to this interim
11 renewal contract; and

12 WHEREAS, rights of renewal of Contract No. 14-06-200-8292A are set forth in said
13 contract; and

14 WHEREAS, the Contractor proposes to enter into subcontracts for the furnishing of
15 water made available to the Contractor under this interim renewal contract; and

16 WHEREAS, Section 3404 of the CVPIA precludes long-term renewal of water
17 service contracts until the completion of appropriate environmental documentation, including a
18 programmatic environmental impact statement ("PEIS") pursuant to the National Environmental
19 Policy Act analyzing the direct and indirect impacts and benefits of implementing the CVPIA and
20 the potential renewal of all existing contracts for Project Water; and

21 WHEREAS, in order to continue water service provided under Project Water service
22 contracts that expire prior to the completion of the PEIS, the United States intends to execute interim
23 renewal contracts for a period not to exceed three (3) Years in length, and for successive interim
24 periods of not more than two (2) Years in length, until appropriate environmental documentation,

1 including the PEIS, is finally completed, at which time the Secretary shall, pursuant to Federal
 2 Reclamation law, upon request of the Contractor, enter into a long-term renewal contract for a period
 3 of twenty-five (25) Years; and may thereafter renew such long-term renewal contracts for successive
 4 periods not to exceed twenty-five (25) Years each; and

5 WHEREAS, the Secretary intends to assure uninterrupted water service and
 6 continuity of contract through the process set forth in Article 2 hereof; and

7 WHEREAS, the United States is willing to renew the Existing Interim Renewal
 8 Contract pursuant to Section 3404(c)(1) of the CVPIA on the terms and conditions set forth below;

9 WHEREAS, the United States and the Contractor desire to contract with DWR for
 10 conveyance of Project Water through the facilities of the SWP as aforesaid under an arrangement
 11 wherein the United States will furnish the necessary power for pumping such water through DWR's
 12 Delta Pumping Plant and Dos Amigos Pumping Plant; and

13 WHEREAS, DWR is willing to convey such water through State Facilities subject
 14 to the availability of transportation capacity and payment of costs as herein provided.

15 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein
 16 contained, it is hereby mutually agreed by the parties hereto as follows:

17 DEFINITIONS

18 1. When used herein unless otherwise distinctly expressed, or manifestly incompatible
 19 with the intent hereof, the term:

20 (a) "Calendar Year" shall mean the period January 1 through December 31, both
 21 dates inclusive;

22 (b) "Charges" shall mean the payments in addition to the Rates determined
 23 annually by the Contracting Officer, required by the Federal Reclamation law, including
 24 Section 3407 of the CVPIA;

1 (c) "Contracting Officer" shall mean the duly authorized representative of the
2 Secretary of the United States Department of the Interior;

3 (d) "Cross Valley Canal" shall mean the water conveyance and related works
4 constructed by the Contractor and others to deliver water from the State Facilities, which
5 canal currently is operated by KCWA;

6 (e) "CVPIA" shall mean the Central Valley Project Improvement Act, Title
7 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

8 (f) "Delivered Water" shall mean Project Water made available to the Contractor
9 and diverted at the point(s) of delivery approved by the Contracting Officer;

10 (g) "Eligible Lands" shall mean all lands to which Irrigation Water may be
11 delivered in accordance with Section 204 of the Reclamation Reform Act of 1982 (43 U.S.C.
12 390aa, et seq.), as amended, hereinafter referred to as RRA;

13 (h) "Entitlement Water" shall mean the amount of SWP Water made available
14 to a SWP Contractor during the respective year, as shown in Table A of their contract with
15 DWR, or as it may be amended;

16 (i) "Excess Lands" shall mean all lands defined as excess in Section 204 of the
17 RRA, other than those lands exempt from acreage limitation under Federal Reclamation law;

18 (j) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3)
19 or 202(3) of the RRA, whichever is applicable;

20 (k) "Ineligible Lands" shall mean all lands to which Irrigation Water may not be
21 delivered in accordance with Section 204 of the RRA;

22 (l) "Irrigation Water" shall mean Project Water which is used primarily in the
23 production of agricultural crops or livestock, including domestic use incidental thereto, and
24 watering of livestock;

1 (m) "KCWA" shall mean the Kern County Water Agency;

2 (n) "Landholder" shall mean an individual or entity attributed with the total
3 irrigable acreage of one or more tracts of land situated in one or more districts owned and/or
4 operated under a lease which is served with Irrigation Water pursuant to a contract with the
5 United States;

6 (o) "M&I Water" shall mean water made available from the Project other than
7 Irrigation Water. M&I Water shall include water used for purposes such as the watering of
8 landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment or
9 water delivered to landholdings operated in units of less than five (5) acres unless the
10 Contractor establishes to the satisfaction of the Contracting Officer that the use of water
11 delivered to any such landholding is a use described in subdivision (l) of this Article;

12 (p) "Minimum OMP&R Costs" shall mean those OMP&R Costs incurred by
13 DWR irrespective of the amount of water delivered to the Contractor;

14 (q) "OMP&R Costs" shall mean the costs incurred by DWR for operation,
15 maintenance, power and replacement of all State Facilities used in conveying Project Water
16 to the Contractor;

17 (r) "O&M" shall mean normal and reasonable care, control, operation, repair,
18 replacement and maintenance of Project facilities;

19 (s) "Operating Non-Federal Entity" shall mean a Non-Federal entity which has
20 the obligation to operate and maintain all or a portion of the Project facilities pursuant to an
21 agreement with the United States;

22 (t) "Operations Manual" shall mean the manual setting forth detailed operations
23 and management procedures prepared by DWR, the Contracting Officer and the Contractor;

24 (u) "Project" shall mean the Central Valley Project owned by the United States

1 and operated by the Department of the Interior, Bureau of Reclamation;

2 (v) "Project Water" shall mean all water that is developed, diverted, stored, or
3 delivered by the United States in accordance with the statutes authorizing the Project and in
4 accordance with the terms and conditions of applicable water rights permits and licenses
5 acquired by and/or issued to the United States pursuant to California law;

6 (w) "Rates" shall mean the payments determined annually by the Contracting
7 Officer in accordance with the then current applicable water ratesetting policies for the
8 Project;

9 (x) "Section 215 Water" shall mean a supply of Irrigation Water made available
10 to the Contractor pursuant to Section 215 of the RRA;

11 (y) "Secretary" shall mean the Secretary of the United States Department of the
12 Interior;

13 (z) "State Facilities" shall mean that portion of the SWP (including DWR's
14 portion of joint facilities), necessary to convey Project Water from the Sacramento-San
15 Joaquin Delta (Delta) to the Cross Valley Canal;

16 (aa) "SWP Contractor" shall mean any entity contracting with DWR for a portion
17 of the minimum project yield of the SWP;

18 (bb) "Subcontractor" shall mean an individual, group of individuals, organization,
19 or entity who contracts with the Contractor to use water made available to the Contractor
20 under this interim renewal contract; and

21 (cc) "SWP" shall mean the California State Water Project;

22 (dd) "SWP Water" shall mean water made available through SWP operations
23 including conservation, purchase, and diversion under water rights of DWR;

24 (ee) "Variable OM&R Costs" shall mean those costs incurred by DWR for

1 operation, maintenance and replacement costs of State Facilities which are dependant upon
2 and vary with the amount of water delivered; and

3 (ff) "Year" shall mean the period from and including March 1 of each Calendar
4 Year through the last day of February of the following Calendar Year.

5 TERM OF CONTRACT--RIGHT TO USE OF WATER

6 2. (a) This interim renewal contract shall be effective from March 1, 2001 and shall
7 remain in effect through February 28, 2002, and thereafter will be renewed as described in this
8 article. Except as provided in subdivision (b) of this Article, until completion of all appropriate
9 environmental review, and provided that the Contractor has complied with all the terms and
10 conditions of the interim renewal contract in effect for the period immediately preceding the
11 requested successive interim renewal contract, this interim renewal contract will be renewed, upon
12 request of the Contractor, for successive interim periods each of which shall be no more than two
13 (2) Years in length. Also, except as provided in subdivision (b) of this Article, in order to promote
14 orderly and cost effective contract administration, the terms and conditions in subsequent interim
15 renewal contracts shall be identical to the terms and conditions in the interim renewal contract
16 immediately preceding the subsequent interim renewal contract: Provided, however, That each party
17 preserves the right to propose modification(s) in any interim renewal contract other than those
18 described in subdivision (b) of this Article, in which case the parties shall negotiate in good faith
19 appropriate modification(s) to be included in any successive interim renewal contracts. Said
20 modification(s) of each successive interim renewal contract shall be agreed upon within a reasonable
21 time prior to the expiration of the then existing interim renewal contract. Nothing in this Article
22 shall in any way alter the obligation that, upon final completion of the PEIS and any necessary
23 supplemental environmental documentation, the Secretary shall, pursuant to Federal Reclamation
24 law, upon request of the Contractor, enter into a long-term renewal contract for a period of twenty-

1 five (25) Years and may thereafter renew such long-term renewal contracts for successive periods
2 not to exceed twenty-five (25) Years each. The Contractor asserts that Contract No. 14-06-200-
3 8292A and existing law go beyond the preceding sentence to give it enforceable rights to successive
4 long-term renewal contracts. The Contracting Officer disagrees with that assertion. The parties
5 agree that this interim renewal contract preserves the rights and positions of the parties and that the
6 omission of language in this interim renewal contract setting out the rights asserted by the Contractor
7 to successive renewals is not intended to be, nor shall it be interpreted as, a waiver of any such rights
8 to the extent any such rights are later determined to exist by a court of competent jurisdiction or by
9 mutual agreement of the parties. If a court of competent jurisdiction or the parties by mutual
10 agreement determine that incorporation of such language in this interim renewal contract is necessary
11 to preserve such rights, this interim renewal contract shall be construed as incorporating such
12 language as though fully set forth herein as of the effective date hereof.

13 (b) The parties anticipate that they will engage in good faith negotiations intended
14 to permit the execution of a twenty-five (25) Year long-term renewal contract contemplated by
15 Section 3404 (c) of the CVPIA, hereinafter referred to as a “long-term renewal contract”, by the end
16 of the term hereof. The parties recognize the possibility that this schedule may not be met.
17 Accordingly:

18 (1) In the event (i) the Contractor and Contracting Officer have reached
19 agreement on the terms of the Contractor’s long-term renewal contract or (ii) the Contractor and
20 Contracting Officer have not completed the negotiations on the Contractor’s long-term renewal
21 contract, believe that further negotiations on that contract would be beneficial, and mutually commit
22 to continue to negotiate to seek to reach agreement, but (iii) all environmental documentation
23 required to allow execution of the Contractor’s long-term renewal contract by both parties has not
24 been completed in time to allow execution of the Contractor’s long-term renewal contract by

1 November 30, 2001, then (iv) the parties will expeditiously complete the environmental
2 documentation required of each of them in order to execute the Contractor's long-term renewal
3 contract at the earliest practicable date. In addition, the Contractor's then current interim renewal
4 contract will be renewed without change upon the request of either party through the agreed-upon
5 effective date of the Contractor's long-term renewal contract or, in the absence of agreement on the
6 terms of the Contractor's long-term renewal contract, through the succeeding February 28.

7 (2) Provided that this interim renewal contract is not subject to renewal
8 under the terms described in subdivision (1) of this Article, if a party determines that the parties have
9 reached an impasse which they have been unable to resolve and which precludes agreement on the
10 long-term renewal contract, that party may notify the other that it has concluded that there is no
11 reasonable likelihood of reaching agreement on the terms of a long-term renewal contract. In the
12 event of such notice, the parties will immediately agree to a schedule and process for negotiating the
13 terms (other than any terms that would impair continuity of water supply or continuity of contract)
14 of and executing an interim renewal contract; provided that neither party will propose for inclusion
15 in the interim renewal contract any provision not previously included in an existing interim renewal
16 contract which it had previously proposed for inclusion in the long-term renewal contract and which
17 was the subject of an impasse in the long-term renewal contract negotiations. The schedule will
18 provide for completion of the negotiations of the terms of that contract by February 1, 2002, and for
19 execution of the contract on or about February 15, 2002. The parties each acknowledge the right of
20 either party to seek judicial relief in connection with any impasse reached in connection with
21 negotiation of the long-term renewal contract and/or an interim renewal contract that would become
22 effective on or after February 28, 2002.

23 (c) The parties acknowledge that the Contractor asserts that it is entitled as a
24 matter of law to an interim renewal contract of longer duration than twelve (12) months, and that the

1 Contracting Officer asserts that it is under no obligation to provide the Contractor with an interim
2 renewal contract of any particular duration. Accordingly, the parties further acknowledge that (i) the
3 foregoing process represents a mutual accommodation to facilitate their joint desire to proceed with
4 the development of a long-term renewal contract in an expeditious and orderly manner, (ii) they each
5 preserve their respective rights and positions relative to the entitlement of the Contractor to
6 subsequent interim renewal contracts should they become necessary, and the terms thereof, and (iii)
7 their agreement to the process and interim renewal contract terms described above is in no way
8 intended to be, nor will it be interpreted as, a waiver of any such rights or positions, all of which are
9 and will be expressly preserved.

10 (d) DWR shall negotiate in good faith with the Contractor and the United States
11 in the process described in (a), (b), and (c) of this Article: Provided, That no such interim renewal
12 contract or long-term renewal contract shall obligate DWR to provide conveyance and/or storage
13 beyond February 28, 2035 without further negotiations. The parties acknowledge that operation of
14 State Facilities is not, and will not be, subject to federal Reclamation law.

15 (e) The omission of language in this interim renewal contract providing for
16 conversion of this interim renewal contract or any subsequent renewals thereof to a repayment
17 contract, pursuant to the Act of July 2, 1956 (70 Stat. 483), shall not prejudice the Contractor's right
18 to assert a right to have such language included in subsequent renewals of this interim renewal
19 contract or to exercise such conversion, all as provided by law, or to negotiate the language regarding
20 such conversion to be included in subsequent renewal contracts.

21 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

22 3. (a) Subject to the provisions set forth in Articles 11 and 12 hereof, and consistent
23 with applicable State water rights, permits and licenses, the Contractor is entitled to, and the
24 Contracting Officer shall be obligated to make available to the Contractor from the Project up to

1 3,000 acre-feet of Project Water for irrigation and/or municipal and industrial purposes during the
2 term of this interim renewal contract. The quantity of Project Water delivered to the Contractor in
3 accordance with this Article 3(a) in any Year shall be scheduled, conveyed and paid for pursuant to
4 the provisions of this interim renewal contract, attached exhibits and the Operations Manual
5 (including any subsequent modifications thereto), and shall not exceed the quantity of Project Water
6 the Contractor intends to put to reasonable beneficial use within the Contractor's boundaries or, if
7 applicable, Subcontractor's boundaries or sold, transferred, or exchanged pursuant to Article 9 during
8 the term of this interim renewal contract.

9 (b) The Contractor shall utilize the Project Water made available to it pursuant
10 to this interim renewal contract in accordance with all applicable requirements of any Biological
11 Opinion addressing the execution of this interim renewal contract developed pursuant to Section 7
12 of the Endangered Species Act of 1973 as amended, and in accordance with environmental
13 documentation as may be required for specific activities, including conversion of Irrigation Water
14 to M&I Water.

15 (c) The Contractor shall make reasonable and beneficial use of Project Water or
16 other water furnished pursuant to this interim renewal contract. Groundwater recharge which is
17 consistent with applicable State law shall be considered a reasonable and beneficial use of Project
18 Water permitted hereunder.

19 (d) Delivery of Project Water to the Contractor from the Friant Division pursuant
20 to Articles 3(e) and 5(c) shall be subject to the completion of the appropriate environmental
21 documentation to the extent such environmental documentation has not been previously completed.

22 (e) If the Contracting Officer determines that Project Water, or other water
23 available to the Project, can be made available to the Contractor in addition to the quantity of Project

1 Water made available to the Contractor pursuant to subdivision (a) of this Article, the Contracting
2 Officer shall so notify the Contractor. If the Contractor requests the delivery of any quantity of such
3 water, the Contracting Officer shall, subject to Article 3(d), make such water available to the
4 Contractor in accordance with applicable statutes, regulations, guidelines and policies. If the
5 Contracting Officer determines that there is an unusually large water supply not otherwise storable
6 for Project purposes or infrequent and otherwise unmanaged flood flows of short duration from the
7 Friant Division, then Friant Division Project Water may be made available to the Contractor as
8 Section 215 Water if the Contractor enters into a temporary contract, not to exceed one (1) year, with
9 the United States for the delivery of such water or, as otherwise provided for in Federal Reclamation
10 law and associated regulations: Provided, That such water shall be first made available to the original
11 twenty-eight (28) long-term Friant Division contractors. Water in addition to the quantities
12 provided for in this interim renewal contract made available to the Contractor by the Contracting
13 Officer shall be scheduled, conveyed and/or stored by DWR only to the extent that DWR has
14 provided separate approval to do so.

15 (f) If the Contractor requests permission to reschedule for use during the
16 subsequent Year some or all of the Project Water made available to the Contractor during the current
17 Year or to use, during the current Year, that quantity of Project Water the United States has agreed
18 to make available to the Contractor during the subsequent Year, the Contracting Officer may permit
19 such uses in accordance with applicable statutes, regulations, guidelines, and policies.

20 (g) The Contractor's right pursuant to Federal Reclamation law and applicable
21 State law to the beneficial use of water furnished pursuant to this interim renewal contract, any
22 subsequent interim renewal contract and, as described in Article 2(a), any long-term renewal
23 contract, shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this

1 interim renewal contract and any such renewal thereof. Nothing in the preceding sentence shall
2 affect the Contracting Officer's ability to impose shortages under Article 12(b) of this interim
3 renewal contract and the applicable provisions of any such renewal thereof.

4 (h) Notwithstanding subdivisions (l) and (o) of Article 1, Project Water furnished
5 to the Contractor pursuant to this interim renewal contract may be delivered for purposes other than
6 those described in subdivisions (l) and (o) of Article 1 upon written approval by the Contracting
7 Officer in accordance with the terms and conditions of such approval.

8 (i) Conveyance and/or storage of Project Water by DWR shall be subject to
9 capacity available in State Facilities in excess of capacity determined by DWR to be needed for all
10 SWP operations or any services to long-term SWP Contractors. Conveyance and/or storage for the
11 Contractor may be curtailed prior or subsequent to approval of the Contractor's schedule under
12 Article 4 hereof, in the event it interferes with the delivery of water to SWP Contractors or other
13 SWP operations necessary to meet long-term obligations of the SWP, including delivery of water
14 to SWP storage or reregulation of stored water for delivery to SWP Contractors.

15 (j) If in any year after DWR and the Contracting Officer have approved a
16 schedule or any revision thereof submitted in accordance within subdivision (a) and (b) of Article
17 4, and if the United States and/or DWR are unable to make water available in the quantities and at
18 the times requested in the schedule and the Contractor does not elect to receive and does not receive
19 such water at other times during such year, then the Contractor shall be entitled to an adjustment as
20 provided in Articles 7(c), 8(d), and 10.

21 TIME FOR DELIVERY OF WATER

22 4. (a) On or about February 15 of each Calendar Year, the Contracting Officer shall
23 declare the amount of Project Water estimated to be made available to the Contractor pursuant to this
24 interim renewal contract for the upcoming Year. The declaration will be updated monthly, as

1 necessary, based on current hydrologic conditions. The Contracting Officer shall make available the
2 forecast of Project operations, with relevant supporting information, upon the written request of the
3 Contractor or its representatives. Upon written request of the Contractor, the Contracting Officer
4 shall provide the basis of the estimate.

5 (b) On or before each March 1, and at such other times as necessary, the
6 Contractor, after approval of KCWA on behalf of the Contractor, shall submit to DWR and the
7 Contracting Officer a written schedule satisfactory to the Contracting Officer and consistent with the
8 criteria specified in the Operations Manual. The written schedule shall show the times, and
9 quantities by month of Project Water to be made available by the United States for delivery to the
10 Contractor during the upcoming Year pursuant to this interim renewal contract, and, consistent with
11 subdivision (a) of Article 3 herein.

12 (c) Subject to the conditions set forth in subdivision (a), Article 3, the United
13 States and DWR shall deliver Project Water to the Contractor in accordance with the approved
14 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any approved
15 revision(s) thereto submitted within a reasonable time prior to the date(s) on which the requested
16 change(s) is/are to be implemented.

17 (d) Scheduling and delivery of Project Water to the Contractor shall be in
18 accordance with detailed procedures set forth in the Operations Manual as it may be amended from
19 time to time.

20 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

21 5. (a) The Project Water to be furnished to the Contractor by the Contracting Officer
22 pursuant to this interim renewal contract shall be made available to the Contractor at a point or
23 points of delivery mutually agreed to in writing by the Contracting Officer, DWR and the Contractor
24 either on Project and/or State Facilities or another location or locations. The parties acknowledge

1 that Project Water to be furnished to the Contractor pursuant to this interim renewal contract shall
2 be delivered to the Contractor by direct delivery via the Cross Valley Canal and/or by exchange
3 arrangements involving Arvin-Edison Water Storage District or others. The parties further
4 acknowledge that such exchange arrangements are not transfers subject to Section 3405(a) of
5 CVPIA. Notwithstanding Article 9, such exchange arrangements, other than the previously approved
6 exchange arrangements with Arvin-Edison Water Storage District, shall be submitted to the
7 Contracting Officer for approval in accordance with the same criteria historically applied by the
8 Contracting Officer or with the then existing Project-wide criteria. DWR shall have no obligation
9 to make such exchange arrangements or be responsible for water transported in facilities that are not
10 a part of the SWP.

11 (b) When Project Water is made available by the Contracting Officer at Clifton
12 Court Forebay, DWR shall provide to the Contractor, subject to the availability of capacity as
13 determined by DWR, conveyance from the Delta and storage in DWR's share of storage at San Luis
14 Reservoir, if necessary, of such Project Water consistent with the following provisions and the
15 Operations Manual;

16 (1) The United States shall deliver or cause to be delivered into the State's
17 Clifton Court Forebay, Project Water in such quantities and of such quality as shall be sufficient to
18 perform the United State's and DWR's obligation to furnish water to the Contractor as set forth in
19 this interim renewal contract. Such deliveries into Clifton Court Forebay shall be made at such times
20 and rates of flow as the Contracting Officer and DWR shall agree.

21 (2) DWR, in accordance with an approved Project Water delivery
22 schedule, shall convey the amount of water delivered into DWR's Clifton Court Forebay by the
23 Contracting Officer directly: (i) to the Cross Valley Canal turnout in Reach 12E of the California
24 Aqueduct or to other points of diversion mutually agreed to in writing by DWR and the Contractor,

1 or (ii) to DWR or federal share of storage in San Luis Reservoir for later release and delivery to the
2 Contractor or (iii) to replace water delivered to the Contractor from DWR's share of San Luis
3 Reservoir prior to DWR receiving Project Water from the United States, to the extent DWR
4 determines that capacity (and water in the event of an exchange) is available for such conveyance,
5 storage, or exchange (if any). Such deliveries of Project Water shall be required to be made in a
6 manner which will not increase the cost of or adversely affect SWP operations and the quantity or
7 quality of water deliveries to SWP Contractors.

8 (3) If DWR delivers water to the Contractor from DWR's share of storage
9 in San Luis Reservoir prior to the United States providing Project Water at DWR's Clifton Court
10 Forebay, the United States shall return a like amount of water to DWR pursuant to the procedures
11 set forth in the Operations Manual.

12 (4) The total amount of Project Water delivered at Clifton Court Forebay
13 to DWR by the United States shall include water to compensate DWR for water conveyance and
14 storage losses incurred in the delivery of Project Water to the Contractor. The amount of such
15 conveyance and storage losses will be determined pursuant to procedures set forth in the Operations
16 Manual.

17 (5) Project Water received by DWR at Clifton Court Forebay for
18 conveyance and/or storage for delivery to the Contractor will be commingled with waters of DWR
19 which are pumped through facilities of the California Aqueduct and with other waters of both the
20 United States and DWR in the joint use facilities of the San Luis Unit.

21 (6) Priorities for use of DWR's share of storage at San Luis Reservoir for
22 storage of Project Water shall be subject to all DWR obligations to the SWP operations and SWP
23 Contractors and to the criteria specified in the Operations Manual.

24 (7) Subject to the necessary arrangements, the United States shall transmit

1 or cause to be transmitted, by exchange or otherwise, such quantities of power as shall be required
2 by DWR to pump through its Delta Pumping Plant and its share of Dos Amigos Pumping Plant, the
3 quantities of Project Water transported into Clifton Court Forebay pursuant to (1) of this subsection.

4 (8) DWR shall furnish the Contracting Officer with such information as
5 the Contracting Officer and DWR agree is needed regarding the timing and quantities of power
6 required by DWR to pump Project Water. Such information shall be exchanged between the United
7 States and DWR in accordance with provisions set forth in the Operations Manual.

8 (9) The United States and DWR may, under terms and conditions
9 satisfactory to both, and in accordance with applicable law, exchange water and/or power necessary
10 for delivery of Project Water to the Contractor under terms of this interim renewal contract. Such
11 exchange shall be in accordance with the provisions set forth in the Operations Manual.

12 (c) To the extent that Friant Division Project Water exceeds Contract demand and
13 other Project purposes, as determined by the Contracting Officer, and if the Contractor so requests,
14 the Contracting Officer, subject to Article 3(d), shall make Project Water provided for in Article 3
15 (a) of this interim renewal contract available from such Friant Division supplies.

16 (d) Project Water may be provided by the Contracting Officer to the Contractor,
17 at the Contractor's request, through federal delta diversion and conveyance facilities and/or stored
18 in the federal share of storage at San Luis Reservoir for reregulation for later delivery to the
19 Contractor to the extent such diversion, conveyance and/or storage does not diminish the ability of
20 the Project to deliver Project Water to users in the Delta Division, San Luis Unit and San Felipe
21 Division service areas or to meet other legal obligations of the Project. The Contractor asserts that
22 it has rights to utilize Project facilities, including, but not limited to, those constructed pursuant to
23 the Act of June 3, 1960 (Public Law 86-488). The Contracting Officer disagrees with this assertion.
24 The parties agree that this interim renewal contract preserves the rights and positions of the parties

1 with respect to use of Project facilities arising pursuant to Contract No. 14-06-200-8292A, and the
2 inclusion or omission of language in this interim renewal contract is not intended to be, nor shall it
3 be interpreted as, a waiver of any such rights should they later be determined to exist by a court of
4 competent jurisdiction or by mutual agreement of the parties.

5 (e) Irrigation Water furnished to the Contractor pursuant to this interim renewal
6 contract shall be delivered by the Contractor in accordance with any applicable land classification
7 provisions of Federal Reclamation law and the associated regulations. Project Water shall not be
8 delivered to land outside the Contractor's boundaries or, if applicable, Subcontractor's boundaries
9 unless approved in advance by the Contracting Officer.

10 (f) All Project Water delivered to the Contractor pursuant to this interim renewal
11 contract shall be measured and recorded with equipment furnished, installed, operated and
12 maintained by the United States or the responsible Operating Non-Federal Entity or DWR at the
13 point or points of delivery established pursuant to subdivisions (a) and (b) of this Article. Upon the
14 request of any party to this interim renewal contract, the Contracting Officer or DWR shall
15 investigate the accuracy of such measurements and shall take any necessary steps to adjust any errors
16 appearing therein. The Contractor shall advise the Contracting Officer on or before the tenth (10th)
17 calendar day of each month of the quantity of M&I Water taken during the preceding month.

18 (g) Neither the United States nor any Operating Non-Federal Entity nor DWR
19 shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water
20 made available to the Contractor pursuant to this interim renewal contract beyond the delivery points
21 specified in subdivisions (a) and (b) of this Article. The Contractor shall indemnify the United States
22 and DWR and their respective officers, employees, agents and assigns on account of damage or
23 claim of damage of any nature whatsoever for which there is legal responsibility, including property
24 damage, personal injury or death arising out of or connected with the control, carriage, handling, use,

1 disposal, or distribution of such Project Water beyond such delivery points, except for any damage
2 or claim arising out of (i) acts performed by the United States, DWR or any of their officers,
3 employees, agents or assigns, including any responsible Operating Non-Federal Entity, with the
4 intent of creating the situation resulting in any damage or claim, (ii) willful misconduct of the United
5 States or DWR or any of their officers, employees, agents, or assigns, including any responsible
6 Operating Non-Federal Entity, or (iii) negligence of the United States or DWR or any of their
7 officers, employees, agents or assigns including any responsible Operating Non-Federal Entity. In
8 the event any such claim or liability, referenced in this Article or otherwise arising from this
9 Agreement, is made against DWR, its officers or its employees, the Contractor agrees to defend,
10 indemnify and hold each of them harmless from such claim to the extent such claim does not arise
11 from an error or omission of DWR related to the control, carriage, handling, use, disposal, or
12 distribution of Project Water made available to the Contractor by the United States.

13 MEASUREMENT OF WATER WITHIN THE DISTRICT

14 6. (a) The Contractor shall ensure that, unless the Contractor has established an
15 alternative measurement program satisfactory to the Contracting Officer, all surface water delivered
16 for irrigation purposes within the Contractor's or, if applicable, Subcontractor's boundaries or, if
17 applicable, Subcontractor's boundaries is measured at each agricultural turnout and such water
18 delivered for municipal and industrial purposes is measured at each municipal and industrial service
19 connection. All water measuring devices or water measuring methods of comparable effectiveness
20 must be acceptable to the Contracting Officer. The Contractor shall be responsible for installing,
21 operating, and maintaining and repairing all such measuring devices and implementing all such water
22 measuring methods at no cost to the United States. The Contractor shall use the information
23 obtained from such water measuring devices or water measuring methods to ensure proper
24 management of the water; to bill water users for water delivered by the Contractor; and, if applicable,

1 to record water delivered for municipal and industrial purposes by customer class as defined in its
 2 water conservation plan. Nothing herein contained, however, shall preclude the Contractor from
 3 establishing and collecting any charges, assessments or other revenues authorized by California law.
 4 The Contractor shall include a summary of its annual surface water deliveries in the annual report
 5 described in Article 25(d).

6 (b) Omitted

7 (c) All new surface water delivery systems installed within the Contractor's
 8 boundaries or, if applicable, Subcontractor's boundaries after the effective date of this interim
 9 renewal contract shall also comply with the measurement provisions described in subdivision (a) of
 10 this Article.

11 (d) The Contractor shall inform the Contracting Officer and DWR in writing by
 12 April 30 of each Year of the monthly volume of surface water delivered within the Contractor's
 13 boundaries or, if applicable, Subcontractor's boundaries during the previous Year.

14 RATES AND METHOD OF PAYMENT TO THE UNITED STATES FOR WATER

15 7. (a) The Contractor shall pay the United States in monthly payments as provided
 16 in this Article for the quantities of Delivered Water furnished to the Contractor pursuant to this
 17 interim renewal contract. Such payments shall consist of the applicable Rates and Charges
 18 determined annually in accordance with applicable Federal law and associated regulations. The
 19 Rates and Charges applicable upon execution of this interim renewal contract are set forth in Exhibit
 20 "A."

21 (b) The Contracting Officer shall notify the Contractor of the Rates and Charges
 22 as follows:

23 (1) Prior to July 1, of each Calendar Year, the Contracting Officer shall
 24 provide the Contractor the preliminary calculation of the Charges that will be applied for the period

1 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and
2 identify the statutes, regulations and guidelines used as the basis for such calculations. On or before
3 September 15, of each Calendar Year, the Contracting Officer shall notify the Contractor in writing
4 of the Charges to be in effect during the period October 1, of the current Calendar Year, through
5 September 30, of the following Calendar Year, and such notification shall revise Exhibit "A."

6 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall
7 make available to the Contractor an estimate of the Rates of payment for the following Year,
8 including Rates for use of applicable Project facilities, including but not limited to San Luis
9 Reservoir, and the computations and cost allocations upon which those Rates are based. The
10 Contractor shall be allowed not less than two (2) months to review and comment on such
11 computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer
12 shall provide the Contractor with the final Rates to be in effect for the upcoming Year, and such
13 notification shall revise Exhibit "A."

14 (c) At the time the Contractor submits the initial schedule for the delivery of
15 Project Water for each Year pursuant to Article 4(b) of this interim renewal contract, the Contractor
16 shall pay the United States the total amount payable pursuant to the applicable Rate(s) for all Project
17 Water scheduled to be delivered pursuant to this interim renewal contract during the first two (2)
18 calendar months of the Year. Before the end of the first month or part thereof of the Year, and
19 before the end of each calendar month thereafter, the Contractor shall pay pursuant to the applicable
20 Rate(s) for all Project Water scheduled to be delivered pursuant to this interim renewal contract
21 during the second month immediately following. Adjustments between the payments for the
22 scheduled amount of Project Water and the appropriate payments for quantities of Delivered Water
23 furnished pursuant to this interim renewal contract each month shall be made before the end of the
24 following month: Provided, That any revised schedule submitted by the Contractor pursuant to

1 Article 4 which increases the amount of Project Water to be delivered pursuant to this interim
2 renewal contract during any month shall be accompanied with appropriate payment for Rates to
3 assure that Project Water is not furnished to the Contractor in advance of such payment. In any
4 month in which the quantity of Delivered Water furnished to the Contractor pursuant to this interim
5 renewal contract equals the quantity of Project Water scheduled and paid for by the Contractor, no
6 additional Project Water shall be made available to the Contractor unless and until payment of Rates
7 for such additional Project Water is made. Final adjustment between the payments of Rates for the
8 Project Water scheduled and the quantities of Delivered Water furnished during each Year pursuant
9 to its interim renewal contract shall be made as soon as possible but no later than April 30th of the
10 following Year.

11 (d) The Contractor shall pay all Charges owing for Delivered Water before the
12 end of the month following the month of delivery. Such amounts shall be consistent with the
13 quantities of Irrigation Water and M&I Water shown in the United States' water delivery report for
14 the subject month. The water delivery report shall be regarded by the Contractor as a bill for the
15 payment of appropriate Charges. Any monthly adjustment for overpayment or underpayment of
16 Charges shall be accomplished through the adjustment of Charges due to the United States in the
17 next month. By March 31, of each Year, the Contractor shall make any additional payment of
18 Charges it is obligated to make for Delivered Water furnished to the Contractor pursuant to its
19 interim renewal contract for the previous Year. The amount to be paid for past due payment of
20 Charges shall be computed pursuant to Article 19 of this interim renewal contract.

21 (e) The Contractor shall pay for any Project Water provided under Article 3(d)
22 or 3(e) as determined by the Contracting Officer pursuant to applicable statutes, regulations,
23 guidelines and policies.

24 (f) Payments to be made by the Contractor to the United States under this interim

1 renewal contract may be paid from any revenues available to the Contractor.

2 (g) Revenues received by the United States pursuant to this interim renewal
3 contract shall be allocated and applied in accordance with Federal Reclamation law, including but
4 not limited to, subsection 3 of Section 1 of the Act of July 2, 1956 (70 Stat. 483), and subsection (f)
5 of Section 3405, subsection (c)(1) of Section 3406 and subsection (d)(2)(A) of Section 3407 of the
6 CVPIA, and the associated regulations, including but not limited to, the Project Irrigation Water
7 ratesetting policy and the Project M&I Water ratesetting policy promulgated pursuant to the
8 Administrative Procedures Act.

9 (h) At the Contractor's request, the Contracting Officer shall provide to the
10 Contractor an accounting of all of the expenses allocated and the disposition of all revenues received
11 pursuant to this interim renewal contract in sufficient detail to allow the Contractor to determine that
12 the allocation of expenses and disposition of all revenues received was accomplished in conformance
13 with Federal Reclamation law and the associated regulations. The Contracting Officer and the
14 Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes arising
15 out of said accounting or the Contractor's review thereof.

16 (i) The parties acknowledge and agree that the efficient administration of this
17 interim renewal contract is their mutual goal. Recognizing that experience has demonstrated that
18 mechanisms, policies and procedures used for establishing Rates and Charges, and/or for making and
19 allocating payments, other than those set forth in this Article would be in the mutual best interest of
20 the parties, it is expressly agreed that the parties may enter into agreements for alternative
21 mechanisms, policies and procedures for any of those purposes while this interim renewal contract
22 is in effect without amending this interim renewal contract.

23 (j) The Contractor and the Contracting Officer concur that at the time of
24 execution of this interim renewal contract, the Contractor has no non-interest bearing operation and

1 maintenance deficits accruing from Contract No. 14-06-200-8292A and shall have no further liability
2 therefor.

3 RATE AND METHOD OF PAYMENT FOR CONVEYANCE
4 AND OTHER SERVICES BY DWR

5 8. (a) To the extent Project Water is conveyed through State Facilities, payment of
6 the costs of conveyance of water through the State Facilities shall be made by the Contractor directly
7 to DWR. The charges and interest rates applicable upon execution of this interim renewal contract
8 are set forth in Exhibit "B." DWR shall invoice the Contractor monthly for all conveyance charges
9 owing for the previous month. Payment by the Contractor to DWR shall be due thirty (30) days after
10 the date of the invoice. Any payment not received within thirty (30) days after the date of the invoice
11 shall be considered delinquent. Delinquent charges shall be calculated in accordance with Exhibit
12 "B" of this interim renewal contract: Provided, That no interest shall be charged to or be paid by the
13 Contractor unless such delinquency continues for more than thirty (30) days in total.

14 (b) DWR shall notify the Contractor of revision to the charges as follows:
15 Prior to October 1, of each Calendar Year, DWR shall notify the Contractor in writing of the charges
16 to be in effect during the following Calendar Year, and such notification shall revise Exhibit "B."
17 At the same time DWR shall provide to the Contractor a copy of the then most recent version of
18 Appendix B of DWR Bulletin 132, which is the basis for calculating the charges to the Contractor
19 to be in effect during that Calendar Year.

20 (c) DWR shall determine the charge per acre-foot for conveyance of water
21 through the SWP each year to revise Exhibit "B" hereto as follows:

22 (1) When DWR provides conveyance directly from the Delta or from the
23 federal share of storage at San Luis Reservoir, the unit conveyance charge shall equal the sum of the
24 following, as determined by DWR:

1 (i) The equivalent unit transportation capital and Minimum
2 OMP&R Costs for Reaches 1 through 12E, excluding Reach 3A, of the California Aqueduct;

3 (ii) The portion of the Delta Water Rate for Reaches 1, 2A, 2B and
4 3 of the California Aqueduct;

5 (iii) The replacement component of the transportation Variable
6 OM&R Costs for the Harvey O. Banks Delta Pumping Plant and DWR's share of the Dos Amigos
7 Pumping Plant;

8 (iv) A charge to offset direct fish losses associated with pumping
9 at the Banks Pumping Plant, pursuant to the December 30, 1986, agreement between the California
10 Department of Fish and Game and DWR; and

11 (v) The incremental costs, if any, caused by the conveyance and
12 delivery of Project Water to the Contractor which, unless included in the increased charges to the
13 Contractor, would result in increased charges to the SWP Contractors or increased costs to DWR.

14 (2) When DWR provides conveyance from the States' share of storage in
15 San Luis Reservoir, the unit charge shall equal the sum of the following as determined by DWR:

16 (i) The San Luis Facilities portion of the Delta Water Rate;

17 (ii) The net unit energy cost to replace water in San Luis Reservoir;

18 and

19 (iii) The sum of all unit charges provided under subdivision (c)(1)
20 of this Article.

21 (d) Should DWR deliver Project Water to San Luis Reservoir on behalf of the
22 Contractor and it is later determined by DWR that capacity to store such Project Water in DWR's
23 share of San Luis Reservoir is no longer available because of need for such storage to meet SWP
24 operations and obligations to SWP Contractors and the Contractor cannot take delivery of such

1 Project Water, DWR shall relieve the Contractor of its obligations to pay DWR for all such Project
2 Water so transported, stored, and no longer available to the Contractor. DWR shall reimburse the
3 Contractor for payments which have previously been made to DWR for any such conveyed and
4 stored supply, less the administrative charge described in (f).

5 (e) If the Contractor is unable, fails or refuses to accept delivery of Project Water
6 made available by DWR in accordance with this interim renewal contract, such inability, failure or
7 refusal shall not relieve the Contractor of its obligation to pay DWR all associated conveyance costs.

8 (f) The Contractor shall pay DWR a monthly administrative charge specified in
9 Exhibit "B" for each month in which DWR conveys Project Water to the Contractor and for each
10 month in which DWR invoices the Contractor for delinquent charges.

11 TRANSFERS OR EXCHANGES OF WATER

12 9. The right to Project Water provided for in this interim renewal contract may be sold,
13 transferred, or exchanged to others for beneficial uses within the State of California if such sale,
14 transfer or exchange is authorized by applicable Federal laws, State laws, and applicable guidelines
15 or regulations then in effect. The right to sell, transfer or exchange Project Water shall include, and
16 the Contracting Officer and DWR shall apply this Article in a manner that does not impede or
17 restrict, lawful short-term sales, transfers, or exchanges of the type the Contractor historically carried
18 out with approval of the Contracting Officer under Contract No. 14-06-200-8292A. No sale, transfer
19 or exchange of the right to Project Water under this interim renewal contract may take place without
20 the prior written approval of the Contracting Officer and of DWR, if SWP Facilities are used to
21 convey such water.

22 APPLICATION OF PAYMENTS AND ADJUSTMENTS

23 10. (a) The amount of any overpayment by the Contractor shall be applied first to any
24 accrued indebtedness arising out of this interim renewal contract then due and payable by the

1 Contractor to DWR or United States. Any amount of such overpayment then remaining shall, at the
2 option of the Contractor, be refunded to the Contractor or credited upon amounts to become due to
3 the United States, or DWR from the Contractor under the provisions hereof in the following months.

4 With respect to overpayment, such adjustment shall constitute the sole remedy of the Contractor or
5 anyone having or claiming to have the right to the use of any of the water supply provided for herein.

6 (b) All advances for miscellaneous costs incurred for work requested by the
7 Contractor pursuant to Article 24 shall be adjusted to reflect the actual costs when the work has been
8 completed. If the advances exceed the actual costs incurred, the difference will be refunded to the
9 Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be billed for the
10 additional costs pursuant to Article 24.

11 (c) In the event that the Contractor contests the accuracy of any statement
12 submitted to it by DWR pursuant to this interim renewal contract it shall give DWR notice thereof
13 at least ten (10) days prior to the day upon which payment of the stated amount is due. To the extent
14 that DWR finds that the Contractor's contentions regarding the statement are correct, it shall revise
15 the statement accordingly, and the Contractor shall make payment of the revised amounts on or
16 before the due date. To the extent that DWR does not find the Contractor's contentions to be correct,
17 or where time is not available for review of such contentions for correctness prior to due date, the
18 Contractor shall make payment of the stated amounts on or before the due date, but may make the
19 contested part of such payment under protest and seek to recover the amount thereof from DWR.

20 (d) If in any year, by reason of errors in computation or other causes, there is an
21 overpayment or underpayment to DWR by the Contractor of its charges provided for herein, the
22 amount of such overpayment or underpayment shall be credited or debited, as the case may be, to
23 the Contractor's account for the next succeeding year and DWR shall notify the Contractor thereof
24 in writing.

1 be construed as claiming for the United States any right to seepage or return flow being put to
2 reasonable and beneficial use pursuant to this interim renewal contract within the Contractor's
3 boundaries or, if applicable, Subcontractor's boundaries by the Contractor or those claiming by,
4 through, or under the Contractor.

5 WATER SHORTAGE AND APPORTIONMENT

6 12. (a) In its operation of the Project, the Contracting Officer will use all reasonable
7 means to guard against a condition of shortage in the quantity of water to be made available to the
8 Contractor pursuant to this interim renewal contract. Insofar as determined by the Contracting
9 Officer to be practicable, the Contracting Officer will, in the event a shortage appears probable,
10 notify the Contractor of such determinations as soon as possible.

11 (b) If there is a reduction in the total water supply available to the Contractor
12 during any Year because of errors in physical operations of the Project, drought, or other physical
13 causes beyond the control of the Contracting Officer or actions taken by the Contracting Officer to
14 meet legal obligations, no liability shall accrue against the United States or any of its officers, agents,
15 or employees for any damage, direct or indirect, arising therefrom so long as actions based upon the
16 opinions or determinations of the Contracting Officer are consistent with the standards of Article 18.

17 (c) In any Year in which there may occur a shortage for any of the reasons
18 specified in subdivision (b) of this Article, the Contracting Officer shall apportion the available
19 Project Water supply among the Contractor and others entitled, under existing contracts and future
20 contracts (to the extent such future contracts are permitted under subsections (a) and (b) of Section
21 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the contractual
22 obligations of the United States.

23 (d) DWR shall make all reasonable efforts consistent with sound fiscal policies,
24 and proper operating procedures to maintain the necessary facilities and to deliver Project Water to

1 the Contractor in accordance with the provisions of this interim renewal contract in such a manner
2 and at such times as such Project Water is scheduled by the Contractor: Provided, That such Project
3 Water has been furnished to DWR by the United States: And Provided, further, That in no event
4 shall any liability accrue against DWR or any of its officers, agents or employees for damage, direct
5 or indirect for failure to deliver Project Water to the Contractor on account of errors in operation,
6 drought, or any other cause beyond the control of DWR. Inasmuch as DWR is providing only
7 conveyance and storage services under this agreement, it bears no responsibility for the availability
8 of Project Water for such conveyance

9 (e) If any of the parties to this interim renewal contract are precluded in whole
10 or in part from delivering, conveying or receiving Project Water as a result of uncontrollable forces,
11 all parties shall be relieved from the obligation to the extent they are reasonably unable to complete
12 the obligation due to the uncontrollable force. Uncontrollable force shall include, but is not limited
13 to, earthquakes, fires, tornados, floods and other natural disasters. Each party shall be responsible
14 for payment of any costs incurred on its behalf by the other party(ies) before the occurrence of the
15 uncontrollable force.

16 UNAVOIDABLE GROUNDWATER PERCOLATION

17 13. The Contractor shall not be deemed to have furnished Irrigation Water to Excess
18 Lands or Ineligible Lands within the meaning of this interim renewal contract if such lands are
19 irrigated with groundwater that reaches the underground strata as an unavoidable result of the
20 furnishing of Irrigation Water by the Contractor to Eligible Lands.

21 COMPLIANCE WITH FEDERAL RECLAMATION LAW

22 14. This interim renewal contract shall be implemented in accordance with all applicable
23 provisions of Federal Reclamation law, as amended and supplemented.

WATER ACQUIRED BY THE CONTRACTOR OTHER THAN
FROM THE UNITED STATES

17. Water or water rights now owned or hereafter acquired by the Contractor or, if applicable, Subcontractor other than from the United States and Irrigation Water furnished pursuant to the terms of this interim renewal contract may be simultaneously transported through the same distribution facilities of the Contractor or, if applicable, Subcontractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water and non-Project water were constructed without funds made available pursuant to Federal Reclamation law, the provisions of Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established through the certification requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands within the Contractor's boundaries or, if applicable, Subcontractor's boundaries can be established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-Project water are constructed with funds made available pursuant to Federal Reclamation law, the non-Project water will be subject to Federal Reclamation law, until such funds have been repaid. Prior written approval from DWR must be obtained by the Contractor prior to conveyance of such water in State Facilities.

OPINIONS AND DETERMINATIONS

18. (a) Where the terms of this interim renewal contract provide for actions to be based upon the opinion or determination of either party to this interim renewal contract, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of this interim renewal contract, expressly reserve the right to seek relief from and appropriate adjustment,

1 including monetary damages, for any such arbitrary, capricious or unreasonable opinion or
 2 determination. Each opinion or determination by either party shall be provided in a timely manner.

3 (b) The Contracting Officer and DWR shall have the right to make determinations
 4 necessary to administer this interim renewal contract that are consistent with the expressed and
 5 implied provisions of this interim renewal contract, the laws of the United States and the State of
 6 California, and the rules and regulations promulgated by the Secretary and DWR. Such
 7 determinations shall be made in consultation with the Contractor to the extent reasonably practicable.

8 UNITED STATES CHARGES FOR DELINQUENT PAYMENTS

9
 10 19. (a) The Contractor shall be subject to interest, administrative and penalty charges
 11 on delinquent installments or payments. When a payment is not received by the due date, the
 12 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
 13 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
 14 charge to cover additional costs of billing and processing the delinquent payment. When a payment
 15 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
 16 percent (6%) per year for each day the payment is delinquent beyond the due date. Further, the
 17 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
 18 payment.

19
 20 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in
 21 the Federal Register by the Department of the Treasury for application to overdue payments, or the
 22 interest rate of one-half of one percent (0.5%) per month prescribed by Section 6 of the Reclamation
 23 Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due
 24 date and remain fixed for the duration of the delinquent period.

25
 26 (c) When a partial payment on a delinquent account is received, the amount
 27 received shall be applied, first to the penalty, second to the administrative charges, third to the
 28 accrued interest, and finally to the overdue payment.

29 EQUAL OPPORTUNITY

30
 31
 32 20. During the performance of this interim renewal contract, the Contractor agrees as
 33 follows:

34 (1) The Contractor will not discriminate against any employee or applicant for
 35 employment because of race, color, religion, sex, or national origin. The Contractor will take
 36 affirmative action to ensure that applicants are employed, and that employees are treated during
 37 employment, without regard to their race, color, religion, sex, or national origin. Such action shall
 38 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;
 39 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of
 40 compensation; and selection for training, including apprenticeship. The Contractor agrees to post

1 in conspicuous places, available to employees and applicants for employment, notices to be provided
2 by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

3
4 (2) The Contractor will, in all solicitations or advertisements for employees
5 placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration
6 for employment without discrimination because of race, color, religion, sex, or national origin.

7 (3) The Contractor will send to each labor union or representative of workers with
8 which it has a collective bargaining agreement or other contract or understanding, a notice, to be
9 provided by the Contracting Officer, advising the said labor union or workers' representative of the
10 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and
11 shall post copies of the notice in conspicuous places available to employees and applicants for
12 employment.

13
14 (4) The Contractor will comply with all provisions of Executive Order No. 11246
15 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the
16 Secretary of Labor.

17
18 (5) The Contractor will furnish all information and reports required by said
19 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or
20 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting
21 Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such
22 rules, regulations, and orders.

23
24 (6) In the event of the Contractor's noncompliance with the nondiscrimination
25 clauses of this interim renewal contract or with any of the said rules, regulations, or orders, this
26 interim renewal contract may be canceled, terminated, or suspended, in whole or in part, and the
27 Contractor may be declared ineligible for further Government contracts in accordance with
28 procedures authorized in said amended Executive Order, and such other sanctions may be imposed
29 and remedies invoked as provided in said Executive Order, or by rule, regulation, or order of the
30 Secretary of Labor, or as otherwise provided by law.

31
32 (7) The Contractor will include the provisions of paragraphs (1) through (7) in
33 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
34 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such
35 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action
36 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
37 means of enforcing such provisions, including sanctions for noncompliance: Provided, however,
38 That in the event the Contractor becomes involved in, or is threatened with, litigation with a
39 subcontractor or vendor as a result of such direction, the Contractor may request the United States
40 to enter into such litigation to protect the interests of the United States.

41
42 GENERAL OBLIGATION--BENEFITSCONDITIONED UPON PAYMENT

43
44 21. (a) The obligation of the Contractor to pay the United States and DWR as
45 provided in this interim renewal contract is a general obligation of the Contractor notwithstanding
46 the manner in which the obligation may be distributed among the Contractor's water users and
47 notwithstanding the default of individual water users in their obligations to the Contractor.

1 (b) If in any year the Contractor fails or is unable to raise sufficient funds by other
2 means, the governing body of the Contractor shall levy upon all property within the Contractor's
3 boundaries or, if applicable, Subcontractor's boundaries not exempt from taxation, a tax, a special
4 tax, or assessment sufficient to provide for all payments due the United States and DWR under this
5 interim renewal contract.

6 (c) Taxes or assessments levied by the governing body of the Contractor pursuant
7 to subdivision (b) of this Article shall be enforced and collected by all officers of the Contractor
8 charged with the duty of enforcing and collecting taxes or assessments levied by the Contractor.

9 (d) All money collected by way of taxes, special taxes, or assessments under this
10 article for payments due DWR shall be kept in a separate fund by the treasurer or other officer of the
11 Contractor charged with the safekeeping and disbursement of funds of the Contractor, and, upon the
12 written demand of DWR, the treasurer or other officer shall pay over to DWR all money in his
13 possession or control then due DWR under this interim renewal contract, which money shall be
14 applied by DWR to the satisfaction of the amount due under this interim renewal contract.

15 (e) In the event of failure, neglect, or refusal of any officer of the Contractor to
16 levy any tax or assessment necessary to provide payment by the Contractor under this interim
17 renewal contract, to enforce or to collect the tax or assessment, or to pay over to the United States
18 or DWR any money then due collected on the tax or assessment, either or both DWR and the United
19 States may take such action in a court of competent jurisdiction as they deem necessary to compel
20 the performance in their proper sequence of all such duties. Action taken pursuant hereto shall not
21 deprive DWR or United States or limit any remedy provided by this interim renewal contract or by
22 law for the recovery of money due or which may become due under this interim renewal contract.

23 (f) The payment of charges becoming due hereunder is a condition precedent to
24 receiving benefits under this interim renewal contract. The United States and DWR shall not make
25 water available to the Contractor through Federal or State Project facilities during any period in

1 which the Contractor may be in arrears in the advance payment of water rates due the United States.
 2 The Contractor shall not furnish water made available pursuant to this interim renewal contract for
 3 lands or parties which are in arrears in the advance payment of water rates levied or established by
 4 the Contractor.

5
 6 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

7
 8 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42
 9 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age
 10 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as
 11 well as with their respective implementing regulations and guidelines imposed by the U.S.
 12 Department of the Interior and/or Bureau of Reclamation.

13
 14 (b) These statutes require that no person in the United States shall, on the grounds
 15 of race, color, national origin, handicap, or age, be excluded from participation in, be denied the
 16 benefits of, or be otherwise subjected to discrimination under any program or activity receiving
 17 financial assistance from the Bureau of Reclamation. By executing this interim renewal contract,
 18 the Contractor agrees to immediately take any measures necessary to implement this obligation,
 19 including permitting officials of the United States to inspect premises, programs, and documents.

20
 21 (c) The Contractor makes this agreement in consideration of and for the purpose
 22 of obtaining any and all Federal grants, loans, contracts, property discounts or other Federal financial
 23 assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including
 24 installment payments after such date on account of arrangements for Federal financial assistance
 25 which were approved before such date. The Contractor recognizes and agrees that such Federal
 26 assistance will be extended in reliance on the representations and agreements made in this Article,
 27 and that the United States reserves the right to seek judicial enforcement thereof.

28
 29 PRIVACY ACT COMPLIANCE

30
 31 23. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)
 32 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et
 33 seq.) in maintaining landholder acreage certification and reporting records, required to be submitted
 34 to the Contractor for compliance with Sections 206 and 228 of the Reclamation Reform Act of 1982
 35 (96 Stat. 1266), and pursuant to 43 CFR 426.10.

36
 37 (b) With respect to the application and administration of the criminal penalty
 38 provisions of the Act (5 U.S.C. 552a(I)), the Contractor and the Contractor's employees responsible
 39 for maintaining the certification and reporting records referenced in (a) of this Article are considered
 40 to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

41 (c) The Contracting Officer or a designated representative shall provide the
 42 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau
 43 of Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--
 44 Interior, Reclamation-31) which govern the maintenance, safeguarding, and disclosure of
 45 information contained in the landholder's certification and reporting records.

46
 47 (d) The Contracting Officer shall designate a full-time employee of the Bureau

1 of Reclamation to be the System Manager who shall be responsible for making decisions on denials
2 pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor
3 is authorized to grant requests by individuals for access to their own records.
4

5 (e) The Contractor shall forward promptly to the System Manager each proposed
6 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR
7 2.71; notify the requester accordingly of such referral; and provide the System Manager with
8 information and records necessary to prepare an appropriate response to the requester. These
9 requirements do not apply to individuals seeking access to their own certification and reporting
10 forms filed with the Contractor pursuant to 43 CFR 426.10, unless the requester elects to cite the
11 Privacy Act as a basis for the request.

12 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

13 24. In addition to all other payments to be made by the Contractor pursuant to this interim
14 renewal contract, the Contractor shall pay to the United States, within sixty (60) days after receipt
15 of a bill and detailed statement submitted by the Contracting Officer to the Contractor for such
16 specific items of direct cost incurred by the United States for work requested by the Contractor
17 associated with this interim renewal contract plus a percentage of such direct costs for administrative
18 and general overhead in accordance with applicable Bureau of Reclamation policy and procedures.
19 All such amounts referred to in this Article shall not exceed the amount agreed to in writing in
20 advance by the Contractor. This Article shall not apply to costs for routine contract administration.

21 WATER CONSERVATION

22 25. (a) Prior to the delivery of water provided from or conveyed through Federally
23 constructed or Federally financed facilities pursuant to this interim renewal contract, the Contractor
24 or, if applicable, Subcontractor shall be implementing an effective water conservation program based
25 on the Contractor's or, if applicable, Subcontractor's water conservation plan that has been
26 determined by the Contracting Officer to meet the conservation and efficiency criteria established
27 under Federal law. The water conservation program shall contain definite water conservation
28 objectives, appropriate economically feasible water conservation measures, and time schedules for
29 meeting those objectives.

1 (b) Should the combined amount of M&I Water delivered pursuant to subdivision
2 (a) of Article 3 during the term of this interim renewal contract equal or exceed 2,000 acre-feet , the
3 Contractor or, if applicable, Subcontractor shall implement the Best Management Practices identified
4 by and the time frames issued by the California Urban Water Conservation Council unless any such
5 practice is determined by the Contracting Officer to be inappropriate for the Contractor or, if
6 applicable, Subcontractor.

7 (c) As part of the water conservation program, the Contractor or, if applicable,
8 Subcontractor shall develop and be implementing a tiered block water pricing program that promotes
9 conservation and the efficient management of Project Water during the term of this contract. Such
10 pricing program for Project Water shall take into account all relevant circumstances, including
11 without limitation, water shortages imposed under this interim renewal contract and the availability
12 and cost of the Contractor's or, if applicable, Subcontractor's and individual water user's non-Project
13 alternative sources of supply, including groundwater and other non-Project water supplies, so that
14 the Contractor's or, if applicable, Subcontractor's pricing structure provides incentives for
15 conservation and the efficient management of overall water supply available to water users served
16 by the Contractor or, if applicable, Subcontractor. Provided, That no such tiered block water pricing
17 program need be implemented by the Contractor or, if applicable, Subcontractor if the Contracting
18 Officer determines, based on information provided by the Contractor or, if applicable, Subcontractor,
19 that (i) such a pricing structure will not result in significant conservation of water available for use
20 within the Contractor's or, if applicable, Subcontractor's boundaries, including groundwater or (ii)
21 other pricing program, conservation or management measures are more appropriate and/or will result
22 in comparable or better conservation of the water supplies available within the Contractor's or, if
23 applicable, Subcontractor's boundaries. Provided further, If the Contractor or, if applicable,
24 Subcontractor fails to, or elects not to, comply with this subdivision of Article 25, then any

1 subsequent interim renewal contract shall contain a tiered pricing contractual provision pursuant to
2 subsection (d) of Section 3405 of the CVPIA.

3 (d) The Contractor or, if applicable, Subcontractor shall submit to the Contracting
4 Officer by December 31, of each Calendar Year, an annual report on the status of its implementation
5 of the water conservation program.

6 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

7 26. Except as specifically provided in Article 17 of this interim renewal contract, the
8 provisions of this interim renewal contract shall not be applicable to or affect water or water rights
9 now owned or hereafter acquired by the Contractor or, if applicable, Subcontractor or any user of
10 such water within the Contractor's boundaries or, if applicable, Subcontractor's boundaries from
11 other than the United States by the Contractor or, if applicable, Subcontractor. Any such water shall
12 not be considered Project Water under this interim renewal contract. In addition, this interim
13 renewal contract shall not be construed as limiting or curtailing any rights which the Contractor or,
14 if applicable, Subcontractor or any water user within the Contractor's boundaries or, if applicable,
15 Subcontractor's boundaries acquires or has available under any other contract pursuant to the Federal
16 Reclamation law.

17 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

18 27. (a) The responsibility for performing and, in some cases funding the O&M of all
19 or any portion of the Project facilities may be transferred to an Operating Non-Federal Entity by one
20 or more separate agreements between the United States and the Operating Non-Federal Entity. Any
21 such separate agreement(s) require the Operating Non-Federal Entity to perform the O&M in
22 compliance with the provisions of this interim renewal contract and shall not interfere with the rights
23 or obligations of the Contractor or the United States hereunder.

24 (b) If so notified in writing by the Contracting Officer, the Contractor shall pay

1 directly to such Operating Non-Federal Entity, in accordance with such notice: (i) That portion of
 2 the Rate(s) to be paid the United States pursuant to this interim renewal contract which the
 3 Contracting Officer determines is the Contractor's appropriate share of the O&M of the Project
 4 facilities maintained by and/or transferred to the Operating Non-Federal Entity, and (ii) All
 5 appropriate additional amounts charged or assessed by the Operating Non-Federal Entity for the
 6 O&M of Project facility. Such direct payments to such Operating Non-Federal Entity shall not
 7 relieve the Contractor of its obligation to pay directly to the United States for its allocated share of
 8 remaining costs for the Project.

9 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

10
 11 28. The expenditure or advance of any money or the performance of any obligation of the
 12 United States under this interim renewal contract shall be contingent upon appropriation or allotment
 13 of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
 14 obligations under this interim renewal contract. No liability shall accrue to the United States in case
 15 funds are not appropriated or allotted.

16 BOOKS, RECORDS, AND REPORTS

17
 18
 19 29. The Contractor shall establish and maintain accounts and other books and records
 20 pertaining to administration of the terms and conditions of this interim renewal contract, including:
 21 the Contractor's financial transactions, water supply data, and Project land and right-of-way
 22 agreements; the water users' land-use (crop census), landownership, land-leasing and water use data;
 23 and other matters that the Contracting Officer may require. Reports thereon shall be furnished to the
 24 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.
 25 Subject to applicable Federal laws and regulations, each party to this interim renewal contract shall
 26 have the right during office hours to examine and make copies of the other party's books and records
 27 relating to matters covered by this interim renewal contract.

28 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

29
 30
 31 30. (a) The provisions of this interim renewal contract shall apply to and bind the
 32 successors and assigns of the parties hereto, but no assignment or transfer of this interim renewal
 33 contract or any right or interest therein shall be valid until approved in writing by the Contracting
 34 Officer.

35 (b) No assignment or transfer of any rights to use State Facilities authorized by
 36 this interim renewal contract shall be valid without advance written approval by DWR.

1 CHANGES IN CONTRACTOR'S OR SUBCONTRACTOR'S BOUNDARIES

2
3 33. While this interim renewal contract is in effect, no change may be made in the
4 Contractor's boundaries or, if applicable, Subcontractor's boundaries, by inclusion or exclusion of
5 lands, dissolution, consolidation, merger or otherwise, except upon the Contracting Officer's written
6 consent.

7
8 NOTICES

9
10 34. Any notice, demand, or request authorized or required by this interim renewal
11 contract shall be deemed to have been given, on behalf of the parties, when mailed, postage prepaid,
12 or delivered to the Area Manager, South-Central California Area Office, United States Bureau of
13 Reclamation, 2666 North Grove Industrial Drive, Fresno, California 93727-1551; the Board of
14 Supervisors, Fresno County, Hall of Records Room 300, 2281 Tulare Street, Fresno, California
15 93721; and the Chief, State Water Project Analysis Office, Department of Water Resources, P.O.
16 Box 942836, Sacramento, California 94236-0001. The designation of the addressee or the address
17 may be changed by notice given in the same manner as provided in this Article for other notices.
18

19 SUBCONTRACTS--SALE OF WATER

20
21 35. The Contractor may enter into subcontracts with third parties for the wholesale
22 distribution to such third parties of Project Water furnished pursuant to this interim renewal contract
23 within the Contractor's boundaries. Each such subcontract shall be subject to the obligations and
24 limitations imposed, and to the rights granted, by this interim renewal contract and shall so provide.
25 The terms and conditions of each subcontract, not previously approved, shall be approved by the
26 Contracting Officer prior to the execution of such subcontract. Approval shall be limited to approval
27 of the Subcontractor's service area and a determination that the subcontract is consistent with the
28 provisions of this interim renewal contract. Nothing contained herein or in any subcontract shall be
29 deemed in any way to release the Contractor from its primary liability to the United States hereunder
30 with respect to each and all of the obligations undertaken by the Contractor in this interim renewal
31 contract.

1 IN WITNESS WHEREOF, the parties hereto have executed this interim renewal contract as
2 of the day and year first above written.

3
4 THE UNITED STATES OF AMERICA

5
6
7 By: /s/ Lowell F. Ploss
8 Acting, Regional Director, Mid-Pacific Region
9 Bureau of Reclamation

10
11
12 Approved as to Legal Form and
13 Sufficiency:

14
15 THE DEPARTMENT OF WATER RESOURCES
16 OF THE STATE OF CALIFORNIA

17 By: /s/ Susan Weber
18 Chief Counsel,
19 Department of Water Resources

20 By: /s/ Thomas M. Hannigan
21 Director,
22 Department of Water Resources

23 (SEAL)

24 THE COUNTY OF FRESNO

25 By: /s/ Deran Kiligian
26 Chairman, Board of Supervisors

27 Attest:

28
29 By: /s/ Patty Schalk
30 Clerk, Board of Supervisors

31 By: /s/ Carolina Jimenez-Hogg
32 Director, Planning & Resources
33 Management Department

34 Approved as to Accounting Form:

35 Approved as to Legal Form:

36 By: /s/ Gary W. Peterson
37 Auditor-Controller/Treasurer/Tax Collector

38 By: /s/ Scott Meinert, Deputy
39 County Counsel

40 BUDGET UNIT NO. _____

41 ACCOUNT NO.: _____

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY

/s/ James E. Turner

OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR